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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
Treatment of Operator Services) CC Docket No. 93-124
Under Price Cap Regulation)

COMMENTS OF THE NYNEX TELEPHONE COMPANIES

New York Telephone Company ("NYT") and New England Telephone and Telegraph Company ("NET"), collectively the "NYNEX Telephone Companies" or "NTCs", hereby file their comments in the above-referenced proceeding.

In its Notice of Proposed Rulemaking ("NPRM") released May 26, 1993 in this docket, the Commission proposed to establish a new category in the traffic sensitive ("TS") basket for operator services.¹ This would include two types of operator services generally offered by the local exchange carriers ("LECs"); (1) operator transfer, or "0- passthrough," services; and (2) line status verification services, including busy line verification ("BLV") and busy line verification and interrupt ("BLV/I").² The new service category would be

1 Treatment of Operator Services Under Price Cap Regulation, Notice of Proposed Rulemaking, FCC 93-203, released May 26, 1993.

2 Id. at n. 1.

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subject to banding limits of plus or minus 5 percent per year adjusted for changes in the TS price cap index.³

The NTCs oppose the Commission's tentative decision to establish yet another service category in the LEC price cap plan. In the LEC Price Cap Order, the Commission established a limited number of service categories so that the LECs would have the pricing flexibility they need to compete while ratepayer interests would be protected.⁴ Since that time, the Commission has added several new service categories and sub-indexes for services (such as 800 database and Local Transport) that have placed or will place additional constraints on LEC pricing flexibility.⁵ The creation of additional service categories is a step back towards the rate of return system, under which LEC rates were the product of rigid Part 69 costing formulas.

The NPRM does not explain why the Commission feels that it must place new restrictions on LEC pricing flexibility for operator services. The operator services market is highly competitive. IXC's, LECs, and hundreds of independent companies provide operator services throughout the country. The proliferation of operator service providers creates a strong

³ Id. at para. 4.

⁴ See Policy and Rules Concerning Rates for Dominant Carriers, 5 FCC Rcd 6786 (1990), para. 221.

⁵ See Provision of Access for 800 Service, CC Docket No. 86-10, Second Report and Order, FCC 93-53, released January 29, 1993, paras. 34, 36; Transport Rate Structure and Pricing, CC Docket No. 91-213, Report and Order and Further Notice of Proposed Rulemaking, released October 16, 1992, paras. 74-76, 82.

marketplace control over unreasonable LEC prices. The Commission presents no evidence that the LECs have abused their existing pricing flexibility or that there is any other reason to take action at this time to place new pricing constraints in the LEC Price Cap plan.

In any event, the Commission's proposal to create a new service category for operator services does not achieve a proper balance of LEC and ratepayer interests. If the Commission is concerned about "unlimited" LEC ability to change prices for operator services, it should deal with that issue without unduly restricting LEC pricing flexibility.

Currently, the NTCs include 0- passthrough services in the Local Transport category and the BLV/VI services in the Interexchange basket.⁶ Both services should be placed in the existing Information category, which should be renamed "Operator Services." This would reduce the LECs' pricing flexibility for operator services to some extent without increasing the number of Price Cap service categories.

⁶ As the NTCs explained in their Reply Comments in the 1992 Annual Access Tariff Proceeding, they included BLV/I in the Interexchange basket by default. The Commission had rejected a NYNEX waiver request to include this service in the Local Transport basket, and it had denied an Ameritech waiver request to include them in the Information category. Since the NTCs did not believe that line status services belonged in Common Line, Special Access, or Local Switching, the NTCs had no choice but to put them in the IX basket. See 1992 Annual Access Tariff Filings, Reply of the NYNEX Telephone Companies, filed May 14, 1992, Appendix H. The NTCs include 0- passthrough services in the Local Transport category because the costs of that service are assigned to Local Transport. See Petition for Waiver and Amendments to Petition for Waiver of the NYNEX Telephone Companies, Order, 63 Rad. Reg. 2d (P&F) 1987, para. 17.

For these reasons, the Commission should not finalize its tentative proposal. Any concerns about LEC pricing flexibility for operator service can be resolved in a less restrictive fashion by including operator services in a retitled Information Services category.

Respectfully submitted,

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and
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